

1
2
3
4
5
6
7

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 HYANG K. YI

Petitioner,

CASE NO. C07-1082-JLR-JPD

12

ALBERTO GONZALES.

Respondent.

REPORT AND RECOMMENDATION

On July 12, 2007, petitioner Hyang K. Yi, proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, seeking release from U.S. Immigration and Customs Enforcement (“ICE”) detention. (Dkt. #4). On August 31, 2007, however, respondent filed a Return Memorandum and Motion to Dismiss, indicating that on August 14, 2007, petitioner was transferred into the custody of the Pierce County Sheriff’s Department and is no longer in ICE detention. (Dkts. #10 and #12). Respondent argues that petitioner’s habeas petition should be dismissed as moot because petitioner is no longer detained by ICE. (Dkt. #10).

For a federal court to have jurisdiction, “an actual controversy must exist at all stages of the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002). “When a controversy no longer exists, the case is moot.” *Id.* Because petitioner is no longer detained by

1 ICE, the Court finds that petitioner's habeas petition should be dismissed as moot. *See, e.g.*,
2 *Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992) (holding that the District Court properly
3 dismissed plaintiff's claims that had become either moot or unripe). Accordingly, I recommend that
4 respondent's motion to dismiss be granted, and that this action be dismissed without prejudice. A
5 proposed Order accompanies this Report and Recommendation.

6 DATED this 13th day of September, 2007.

7 
8

9 JAMES P. DONOHUE
United States Magistrate Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26